REMARKS/ARGUMENTS

Claim Objections:

The Office noted that current claims 73 and 74 were mis-numbered as claims 72 (2nd occurrence) and 73, respectively. The Applicant agrees and made the appropriate correction.

35 USC 112, First Paragraph

Claim 72 was rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office states that the language of claim 72, "wherein the blanket further comprises flaps that cover a horse's neck above a withers region and extending rearward to cover a hindquarter region of the horse" fails to satisfy the written description requirement. The Office argues that nothing in the specification or drawings show any flaps in the neck/withers area of the horse. The Applicant agrees that use of the term "flaps" in claim 72 may have confused the Examiner, and thus has amended claim 72 to recite "wherein the blanket further comprises a front end and a rear end, wherein the front end includes a cut away portion that rests just above a withers region of the horse, and wherein the rear end of the blanket to cover a horse's hindquarter region." No new matter has been added, and support for claim 72 is found at paragraph [0031] of the published application, and in Figure 1E, as shown below.

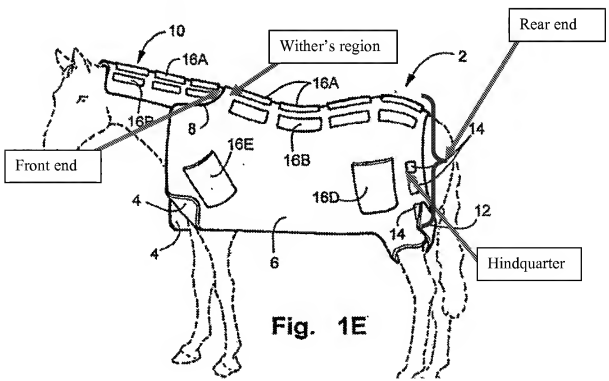

Fig. 1E

35 USC 112, Second Paragraph

Claims 68 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Office's rejection is that the phrase "can be" in claim 68 is indefinite, since it is unclear if the temperature altering device -is a series of electrically controlled heating elements or not. (January 5, 2009 Office Action at 3.) The Applicant agrees and has amended claim 68 to recite "The system of claim 61, wherein the temperature altering device **is** a series of electrically controlled heating elements."

Support For New Limitations

The Applicant has amended claim 61 to include the following limitation: "a flap coupled to the blanket, wherein the flap includes an third pocket positioned to deliver a temperature altering regimen to a stifle joint of the horse." No new matter has been added, and support for this limitation can be found in paragraph [0040] of the published application.

35 USC 103: Uhr/Tadauchi/Wilson

The office rejected claims 61, 63, 67, 73, and 74 under 35 U.S.C. § 103(a) as being unpatentable over Uhr (DE 20021260U1) in view of Tadauchi (JP 410113088A) and Wilson (GB 2374535). The applicant respectfully disagrees.

Claim 61 includes the following limitations: (1) a blanket sized and dimensioned to drape over a horse; (2) first and second pockets disposed on an underside of the blanket, each of which … includes a removable temperature altering device, and each of which is freely positionable about the blanket …; (3) wherein the first pocket has a first size and the second pocket has a second size that is different from the first size; and (4) a flap coupled to the blanket, wherein the flap includes an third pocket positioned to deliver a temperature altering regimen to a stifle joint of the horse. In this case, the combination of Uhr, Tadauchi and Wilson fail to render claim 61 obvious.

The real question in this case is whether a horse blanket having fixed pockets, like Uhr's can be modified with: (1) Wilson that teaches a animal blanket having fix pockets of varying size and number (Wilson Abstract); and (2) Tadauchi that teaches a **horse harness**

having freely positionable pockets that are all the same size. The Applicant asserts that the combination of Uhr, Tadauchi, and Wilson is improper.

In the present case, fixed pockets that vary in size and number (Wilson), and freely positionable pockets (Tadauchi) having the same size, **address the same problem**, namely, heating or cooling specific target areas of a horse. A person of ordinary skill in the art would contemplate heating or cooling a specific target area of horse by either (1) selecting one of the many fixed pockets for the desired target area or (2) placing some of the freely positionable pockets having the same size at the target area. However, each of Tadauchi and Wilson convey to one of ordinary skill in the art that they have completely solved their respective problems, and one of ordinary skill in the art would not have been motivated to combine the two solutions. Wilson's device apparently works just fine, without freely positionable pockets, since one could select one of the many fixed pockets for the desired target area. And Tadauchi's device also works just fine without using pockets with varying sizes, since a user can place multiple heating or cooling pockets at the desired target area. As such, Tadauchi and Wilson both fail to teach, suggest or motivate a person of ordinary skill in the art to combine their two solutions to arrive at the subject matter as currently claimed.

Moreover, none of Uhr, Tadauchi, and Wilson provide any teaching, suggestion, or motivation to one of ordinary skill in the art to utilize a flap that includes an third pocket positioned to deliver a temperature altering regimen to a stifle joint of the horse. Thus, the present rejection should be withdrawn.

Still further, the Applicant in rebuttable to the Office's *prima facie* case of obviousness, is submitting declarations that evidence the commercial success of the therapeutic horse blanket, and that such commercial success is a direct result of the claimed features of the present invention. The Applicant has sold approximately 199 horse blankets(i.e. units), and the Declaration of Kevin Bello, the co-owner of Recover Blankets LLC, states that: (1) "the simplicity and ease of which a user can freely position the pockets about the inside of [the] … therapeutic horse blanket and the ability of a user to effectively target a horse's stifle joint are simply incredible that neither I nor my customers have ever seen before"; (2) "[t]he [claimed] features [of the present invention] made for a therapeutic

horse blanket having remarkable advantages over existing horse blankets that proved to be the driving force behind Recover Blankets sales and our customers repeated purchases of our therapeutic horse blankets." (Bello Decl, page 2.) In support of these statements, the declarations of Diedre Knowlton and Mark Meyers, customers of the Applicant, both state that their decision to the purchase the Applicant's blankets was driven by:

(1) Freely positional pockets that allow treatment of the horse ANYWHERE on the inside of the blanket. Unlike other types of treatment blankets on the market, the ReCover blanket does NOT have sewn in, predetermined pockets that dictate the areas of treatment. Rather, the ReCover blankets allows for the specific placement pouches containing the cold/heat pack any place inside the blanket by way of hook and loop.

(2) Pouches that allow for various sizes of cold/heat packs to be inserted for treatment.

(3) leg flap having the ability to wrap around and position the heat/cold pack for isolated treatment of the stifle joint of the horse.

As such, the Applicant's commercial success is a direct result of the claimed features of the present invention, and the Applicant requests withdrawal of the present rejection.

Claims 63, 67, 73, and 74 are all allowable (among other things) by virtue of their dependency on independent claim 61.

35 USC 103: Uhr/Tadauchi/Wilson/Newman

The office rejected claims 62 and 66 under 35 U.S.C. § 103(a) as being unpatentable over Uhr as modified by Tadauchi and Wilson as applied to claim 61, and further in view of Newman (US 5271211). These rejections should also be withdrawn because (as discussed above) the combination of Uhr, Tadauchi, and Wilson fails to render independent claim 61 obvious, and Newman adds nothing further to the analysis with respect to claim 61. Thus, claims 62 and 66 are allowable by virtue of their dependency upon independent claim 61.

35 USC 103: Uhr/Tadauchi/Wilson/Fazio

The office rejected claim 64 under 35 U.S.C. § 103(a) as being unpatentable over Uhr as modified by Tadauchi and Wilson as applied to claim 61, and further in view of Fazio (US 6443101). Here again, this rejection should be withdrawn because (as discussed above) the

combination of Uhr, Tadauchi, and Wilson fails to render independent claim 61 obvious, and Fazio adds nothing further to the analysis with respect to claim 61. Thus, claim 64 is allowable by virtue of its dependency upon independent claim 61.

35 USC 103: Uhr/Tadauchi/Wilson/Beeghly

The office rejected claim 65 under 35 U.S.C. § 103(a) as being unpatentable over Uhr as modified by Tadauchi and Wilson as applied to claim 61, and further in view of Beeghly (US 5537954). Again this rejection should be withdrawn because (as discussed above) the combination of Uhr, Tadauchi, and Wilson fail to render independent claim 61 obvious, and Beeghly adds nothing further to the analysis with respect to claim 61. Thus, claim 65 is allowable by virtue of its dependency upon independent claim 61.

35 USC 103: Uhr/Tadauchi/Wilson/Schulte

The office rejected claim 68 under 35 U.S.C. § 103(a) as being unpatentable over Uhr as modified by Tadauchi and Wilson as applied to claim 61, and further in view of Schulte (DE 4140507A). This rejection should again be withdrawn because (as discussed above) the combination of Uhr, Tadauchi, and Wilson fail to render independent claim 61 obvious, and Schulte adds nothing further to the analysis with respect to claim 61. Thus, claim 68 is allowable by virtue of its dependency upon independent claim 61.

35 USC 103: Uhr/Tadauchi/Wilson/Osborn

The office rejected claims 70 and 72 under 35 U.S.C. § 103(a) as being unpatentable over Uhr as modified by Tadauchi and Wilson as applied to claim 61, and further in view of Osborn (US 233275). This rejection should again be withdrawn because (as discussed above) the combination of Uhr, Tadauchi, and Wilson fail to render independent claim 61 obvious, and Osborn adds nothing further to the analysis with respect to claim 61. Thus, claims 70 and 72 are allowable by virtue of their dependency upon independent claim 61.

35 USC 103: Uhr/Tadauchi/Wilson/Longtin

Finally, the office rejected claim 71 under 35 U.S.C. § 103(a) as being unpatentable over Uhr as modified by Tadauchi and Wilson as applied to claim 61, and further in view of Longtin (US Appl. 2003/0061790A1). Here again, this rejection should be withdrawn

because (as discussed above) the combination of Uhr, Tadauchi, and Wilson fail to render independent claim 61 obvious, and Longtin adds nothing further to the analysis with respect to claim 61. Thus, claim 71 is allowable by virtue of its dependency upon independent claim 61.

Request For Allowance

Claims 61-74 are pending in this application. The applicant requests allowance of all pending claims.

Respectfully submitted,
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